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Hearing

UNITED STATES SUPPLY SERVICE

Office of the Deputy Supplymaster General
One Hundred M Street, N.W., Suite 1050
Washington, D.C. 20419

Phone: (202) 555-2755 Fax: (202) 555-2756; E-Mail: thenumber2general@wesupplyfeds.gov

The Deputy Supplymaster General

April 17, 2008

William Johnson
Special Projects Officer
United States Supply Service
Southern Region
401 W. Peachtree Street, NW
Suite 4000
Atlanta, Georgia 30308

Dear Mr. Johnson:

I have given full and careful consideration to the letter of proposed removal and the evidence relied upon in support of the proposal. I have also give consideration to your written and oral replies. It is my determination that the charge and specification cited in the notice of proposed removal is sustained. Accordingly, you will be removed from your position with the U.S. Supply Service effective April 20, 2008.

I have considered your prior 17-years of Federal Service and that you have received three successive exceeds fully successful performance evaluations. I have determined, however, that the nature and seriousness of this offense is not mitigated by these factors.

I have given weight to the facts surrounding the incident and consideration to your personal relationship with Ms. Cheryl Ann Flynn, and the fact that she was pregnant.

I also considered that you state that you believed Ms. Flynn was innocent of the drug possession and possession of drug paraphernalia charges brought against her.

Your statements reflect your extremely poor judgment and demonstrate your inability to function effectively as a Special Agent in Charge with this agency's Office of Inspector General. The Supply Service Inspector's Law Instruction (SSILI) prohibits fraternization with "known or suspected law violators." (Emphasis added). Therefore, Ms. Flynn's innocence is quite irrelevant since you knew or should have known that she was a suspected law violator. Despite that knowledge, you bailed Ms. Flynn out of jail and allowed her back into your home after she was arrested for felony drug possession and for possession of drug paraphernalia.

"We Set the Standard! Others follow!"

Your written and oral replies exhibit no remorse whatsoever. It is clear to me that, in your view, you had every right to bail out and shelter Ms. Flynn. Even now, you fail to understand why this matter is of concern to the agency.

While at work and away from work, you are expected to adhere to all rules and regulations, and to conduct yourself in a courteous, ethical, and professional manner at all times. I must be confident that you understand what type of behavior is unacceptable. Our Supplymaster General, the Honorable Thomas J. Snodgrass III, Major General (Ret.), U.S. Army, has repeatedly stated that he expects this agency's employees to maintain the highest possible moral and ethical standards. Moreover, I must also be able to rely on your judgment and I must be confident that you can carry out your responsibilities in an appropriate manner. Your actions cast doubt on my ability to rely on your judgment and to trust you to conduct yourself appropriately. As a supervisor and as a law enforcement officer, you are held to a higher standard than other employees.

In light of your prior disciplinary record, I believe that the penalty of removal is appropriate, and is within tolerable limits of reasonableness. Accordingly, in accordance with Supply Service Policy Directive 03-02, you will be removed from the Federal service.

Please carefully review the attachment to this letter which contains detailed guidance on your appeal rights.

Sincerely,

Jennifer M. McMillan

Jennifer M. McMillan
Rear Admiral (Ret.), U.S. Navy
The Deputy Supplymaster General

UNITED STATES SUPPLY SERVICE

Office of the Inspector General
One Hundred M Street, N.W., Suite 1050
Washington, D.C. 20419

Phone: (202) 555-2755 Fax: (202) 555-2756; E-Mail: theinspectorgeneral@wesupplyfeds.gov

The Inspector General

March 17, 2008

William Johnson
Regional Special Agent in Charge
United States Supply Service
Office of Inspector General
401 W. Peachtree Street, NW
Suite 4050
Atlanta, Georgia 30308

Dear Mr. Johnson:

This is to inform you that I am proposing your removal from the position of Regional Special Agent-in-Charge, United States Supply Service, Office of the Inspector General, effective 30 days from the date of this notice. The reasons for this proposed action are as follows:

Charge: Associating with a known or suspected law violator

Specification:

While the Regional Special Agent in Charge of the Southern Regional Office of the US Supply Service Office of Inspector General, you allowed a woman of poor character and repute, Cheryl Ann Flynn, to move into your home. At the time, Ms. Flynn was employed as an exotic dancer at the Tattletale's Lounge in Atlanta, Georgia. Ms. Flynn had left her mother's home after an apparent falling out. Soon after Ms. Flynn moved in to your residence, the mother reported to the police that she had found a straw in Ms. Flynn's purse that appeared to be used for ingesting cocaine. The straw tested positive for cocaine, and Ms. Flynn was arrested by the Atlanta Police Department Red Dog Unit at your residence and charged with felony cocaine possession. You were present in the home at the time of Ms. Flynn's arrest.

Although Ms. Flynn claimed that she was innocent, that the straw was not hers, that she had not used cocaine, and that her mother was attempting to frame her because of a dispute over an alleged debt, Ms. Flynn was, nevertheless, indicted by a Fulton County, Georgia, grand jury and later arrested again on the same charge, as well as charges of possession of drug paraphernalia.

"We Set the Standard! Others follow!"

After both arrests you posted bond for Ms. Flynn. You posted \$2,000 or 10% of the \$20,000.00 bond the first time. After the second arrest, you posted \$5,000.00 and obtained \$5,000.00 more from Ms. Flynn's father, to satisfy her \$100,000.00 bond. Ms. Flynn returned to your home each time after being released. Ultimately, the felony cocaine possession charge against her was dismissed after she agreed to plead guilty to a misdemeanor charge of possession of drug paraphernalia.

Discussion:

The Supply Service Inspector's Law Instruction (SSILI) provides that IG Investigators must maintain the highest standard of ethical and moral behavior. To that end, the SSILI provides that:

While law violators and other disreputable persons are sometimes ingratiating and have engaging personalities, these qualities do not justify associating with them. Even the appearance of being social with such persons must be avoided.

Fraternization with known or suspected law violators is prohibited unless a special agent's supervisor has issued instructions to obtain information from such individuals. Even then the supervisor must be kept closely informed. In short, special agents should avoid all associations or places that may degrade them or their positions in the eyes of the public.

Accordingly, consorting with or being habitually seen in the company of questionable characters is considered improper conduct for officers of the US Supply Service Office of Inspector General.

Ms. Flynn is clearly a law violator and person of questionable character within the meaning of the SSILI. Law Enforcement Officers are held to a higher standard than other employees. Supervisors are held to a higher standard than other employees. Therefore, as a Supervisor Special Agent you are held the highest possible standard.

Plainly, allowing Ms. Flynn, an exotic dancer and suspected drug user to live in your home created, at best, the appearance that you would tolerate one who engages in such behavior, and, at worst, the appearance that you were engaging in a personal relationship with a person of low moral character and disrepute.

The deciding official in this case will be the Deputy Supplymaster General, the Honorable Jennifer M. McMillan, Rear Admiral (Ret.), U.S. Navy. You will be given 15 days from the date of this letter to submit an oral and/or written reply to General

McMillan. You may take a reasonable amount of official time to work on your responses, if any, and, if you request an oral reply, the agency will pay your travel expenses in accordance with applicable travel regulations, for you to visit Headquarters.

If you have any questions regarding this proposal, you may contact the Director of Human Resources, Ms. Sandy Altieri, at (202) 555-2775 for guidance. If the final decision of General McMillan is to remove you, your removal will be effective no less than 30 days from the date of this proposal.

You will remain in an duty status until a decision has been made on this proposal. However, during that period you will be detailed out of the Office of Inspector General to the position of Assistant Special Projects Officer, Atlanta Regional Office, under the supervisor of Mr. Art Linkletter, the Regional Director.

Sincerely,

Thomas J. McCarthy

Thomas J. McCarthy
Brigadier General (Ret.), U.S. Marine Corps
The Inspector General

U.S. MERIT SYSTEMS PROTECTION BOARD



APPEAL FORM

INSTRUCTIONS

GENERAL: You do not have to use this form to file an appeal with the Board. However, if you do not, your appeal must still comply with the Board's regulations. 5 C.F.R. Parts 1201 and 1209. Your agency's personnel office will give you access to the regulations, and the Board will expect you to be familiar with them. You also should become familiar with the Board's key case law and controlling court decisions as they may affect your case. **You must tell the Board if you are raising an affirmative defense (see Part IV), and you are responsible for proving each defense you raise.**

WHERE TO FILE AN APPEAL: You must file your appeal with the Board's regional or field office which has responsibility for the geographic area in which you are employed. See 5 C.F.R. Part 1201, Appendix II.

WHEN TO FILE AN APPEAL: Your appeal must be filed during the period beginning with the day after the effective date of the action you are appealing and ending on the 30th day after the effective date. You may not file your appeal before the effective date of the action you are appealing. If you are appealing from a decision which does not set an effective date, you must file within 35 days of the date of the decision you are appealing. If your appeal date is late, it may be dismissed as untimely. The date of the filing is the

appeal is postmarked, the date of the facsimile transmission, the date it is delivered to a commercial overnight delivery service, or the date of receipt if you personally deliver it to the regional or field office.

HOW TO FILE AN APPEAL: You may file your appeal by mail, by facsimile, by commercial overnight delivery, or by personal delivery. You must submit two copies of both your appeal and all attachments. You may supplement your response to any question on separate sheets of paper, but if you do, please put your name and address at the top of each additional page. All of your submissions must be legible and on 8 1/2" x 11" paper. **Your appeal must contain your or your representative's signature in block 6. If it does not, your appeal will be rejected and returned to you. If your representative signs block 6, you must sign block 11 or submit a separate written designation of representative.**

WHISTLEBLOWING APPEAL/STAY REQUEST: If you believe the action you are appealing was threatened, proposed, taken, or not taken because of whistleblowing activities, **you must complete Part VII of this form. If you are requesting a stay, you must complete Part VIII of this form.**

Privacy Act Statement: This form requests personal information which is relevant and necessary to reach a decision in your appeal. The U.S. Merit Systems Protection Board collects this information in order to process appeals under its statutory and regulatory authority. Since your appeal is a voluntary action you are not required to provide any personal information in connection with it. However, failure to supply the U.S. Merit Systems Protection Board with all the information essential to reach a decision in your case could result in the rejection of your appeal.

The U.S. Merit Systems Protection Board is authorized under provisions of Executive Order 9397, dated November 22, 1943, to request your Social Security number, but providing your Social Security number is voluntary and failure to provide it will not result in the rejection of your appeal. Your Social Security number will only be used for identification purposes in the processing of your appeal.

You should know that the decisions of the U.S. Merit Systems Protection

Board on appeals are final administrative decisions and, as such, are available to the public under the provisions of the Freedom of Information Act. Additionally, it is possible that information contained in your appeal file may be released as required by the Freedom of Information Act. Some information about your appeal will also be used in depersonalized form as a data base for program statistics.

Public Reporting Burden: The public reporting burden for this collection of information is estimated to vary from 20 minutes to 1 hour, with an average of 30 minutes per response, including time for reviewing the form, searching existing data sources, gathering the data necessary, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to the Office of Planning and Resource Management Services, Merit Systems Protection Board, 1120 Vermont Ave., NW., Washington, DC 20419.

Part I Appellant Identification²

1. Name (last, first, middle initial) <i>Johnson, William</i>	2. Social Security Number <i>155-39-7777</i>
3. Present address (number and street, city, state, and ZIP code) You must notify the Board of any change of address or telephone number while the appeal is pending with the MSPB. <i>1602 Peachtree Terrace, NW Atlanta, GA 30301</i>	4. Home phone (include area code) <i>404-555-1212</i> 5. Office phone (include area code) <i>N/A</i>
6. I certify that all of the statements made in this appeal are true, complete, and correct to the best of my knowledge and belief.	<div style="display: flex; justify-content: space-between;"> <div>Signature of appellant or designated representative <i>William Johnson</i></div> <div>Date signed <i>May 20, 2008</i></div> </div>

Part II Designation of Representative

7. You may represent yourself in this appeal, or you may choose someone to represent you. Your representative does not have to be an attorney. You may change your designation of a representative at a later date, if you so desire, but you must notify the Board promptly of any change. Where circumstances require, a separate designation of representative may be submitted after the original filing. Include the information requested in blocks 7 through 11.

"I hereby designate Shaw, Branford, Vaillaux & Roth, PC to serve as my representative during the course of this appeal. I understand that my representative is authorized to act on my behalf. In addition, I specifically delegate to my representative the authority to settle this appeal on my behalf. I understand that any limitation on this settlement authority must be filed in writing with the Board."

<p>8. Representative's address (number and street, city, state, and ZIP code).</p> <p><u>1100 Connecticut Ave, NW</u> <u>Suite 900</u> <u>Washington DC 20036</u></p>	<p>9. Representative's employer</p> <p><u>N/A</u></p>
	<p>10.a) Representative's telephone number (include area code)</p> <p><u>202-463-8400</u></p>
	<p>10.b) Representative's facsimile number</p> <p><u>202 833-8012</u></p>
	<p>11. Appellant's signature Date</p> <p><u>William Johnson</u> <u>May 20, 2008</u></p>

Part III Appealed Action

12. Briefly describe the agency action you wish to appeal and attach the proposal letter and decision letter. If you are appealing a decision relating to the denial of retirement benefits, attach a copy of OPM's reconsideration decision. If the relevant SF-50 or its equivalent is available, send it now; however, do NOT delay filing your appeal because of it. You may submit the SF-50 when it becomes available. Later in the proceeding, you will be afforded an opportunity to submit detailed evidence in support of your appeal.

Unwarranted Removal

<p>13. Name and address of the agency that took the action you are appealing (including bureau or other divisions, as well as street address, city, state and ZIP code)</p> <p><u>US Supply Service, OIA</u> <u>100 M St, NW, Ste 1050, Washington DC 20419</u></p>		<p>14. Your position title and duty station at the time of the action appealed</p> <p><u>Regional Special Agent in Charge</u></p>	
<p>15. Grade at time of the action appealed</p> <p><u>GS-15</u></p>	<p>16. Salary at the time of the action appealed</p> <p><u>\$ 145,000 per yr.</u></p>	<p>17. Are you a veteran and/or entitled to the employment rights of a veteran?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>18. Employment status at the time of the action appealed</p> <p> <input type="checkbox"/> Temporary <input type="checkbox"/> Applicant <input type="checkbox"/> Retired <input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Term <input type="checkbox"/> Seasonal </p>		<p>19. If retired, date of retirement (month, day, year)</p> <p><u>N/A</u></p>	<p>20. Type of service</p> <p> <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> SES <input type="checkbox"/> Excepted <input type="checkbox"/> Postal Service <input type="checkbox"/> Foreign Service </p>
<p>21. Length of government service</p> <p><u>27 years</u></p>	<p>22. Length of service with acting agency</p> <p><u>17 years</u></p>	<p>23. Were you serving a probationary or trial period at the time of the action appealed?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>24. Date you received written notice of the proposed action (month, day, year) (attach a copy)</p> <p><u>5/17/08</u></p>	<p>25. Date you received the final decision notice (month, day, year) (attach a copy)</p> <p><u>4/17/08</u></p>	<p>26. Effective date of the action appealed (month, day, year)</p> <p><u>4/20/08</u></p>	

27. Explain briefly why you think the agency was wrong in taking this action.

It is none of the agency's business if I want to date a woman they don't approve of. This is crazy!

28. Do you believe the penalty imposed by the agency was too harsh?

☒ Yes

☐ No

29. What action would you like the Board to take on this case (i.e., what remedy are you asking for)?

Reinstatement, Back Pay, Comp Damages

Part IV Appellant's Defenses

30.a) Do you believe the agency committed harmful procedural error(s)?

☒ Yes

☐ No

30.b) If so, what is (are) the error(s)?

Admiral McMillen did as General Snodgrass wanted. She was not independent.

30.c) Explain how you were harmed by the error(s).

A fair & impartial deciding official would have thrown out these stupid charges

31.a) Do you believe that the action you are appealing violated the law?

☒ Yes

☐ No

31.b) If so, what law?

Due Process Clause of US Constitution

31.c) How was it violated?

I was fired because General Snodgrass is a right wing religious nut.

32.a) If you believe you were discriminated against by the agency, in connection with the matter appealed, because of your race, color, religion, sex, national origin, marital status, political affiliation, disability, or age, indicate so and explain why you believe it to be true.

religion - I offended the higher up religious authorities.

32.b) Have you filed a formal discrimination complaint with your agency or any other agency concerning the matter which you are seeking to appeal?

☐ Yes (attach a copy)

☒ No

32.c) If yes, place filed (agency, number and street, city, state, and ZIP code)

N/A

32.d) Date filed (month, day, year)

N/A

32.e) Has a decision been issued?

☐ Yes (attach a copy)

☐ No

N/A

33.a) Have you, or anyone in your behalf, filed a formal grievance with your agency concerning this matter, under a negotiated grievance procedure provided by a collective bargaining agreement? <input type="checkbox"/> Yes (attach a copy) <input checked="" type="checkbox"/> No	33.b) Date filed (month, day, year) N/A
33.c) If yes, place filed (agency, number and street, city, state, and ZIP code) N/A	33.d) Has a decision been issued? <input type="checkbox"/> Yes (attach a copy) <input checked="" type="checkbox"/> No N/A <hr/> 33.e) If yes, date issued (month, day, year) N/A

Part V Hearing

34. You may have a right to a hearing on this appeal. If you do not want a hearing, the Board will make its decision on the basis of the documents you and the agency submit, after providing you and the agency with an opportunity to submit additional documents.

Do you want a hearing?

☒ Yes

☐ No

If you choose to have a hearing, the Board will notify you where and when it is to be held.

Part VI Reduction In Force

INSTRUCTIONS

Fill out this part only if you are appealing from a Reduction in Force. Your agency's personnel office can furnish you with most of the information requested below.

35. Retention group and sub-group	36. Service computation date	37.a) Has your agency offered you another position rather than separating you? <input type="checkbox"/> Yes <input type="checkbox"/> No
37.b) Title of position offered	37.c) Grade of position offered	37.d) Salary of position offered \$ per
37.e) Location of position offered		37.f) Did you accept this position? <input type="checkbox"/> Yes <input type="checkbox"/> No

38. Explain why you think you should not have been affected by the Reduction In Force. (Explanations could include: you were placed in the wrong retention group or sub-group; an error was made in the computation of your service computation date; competitive area was too narrow; improperly reached for separation from competitive level; an exception was made to the regular order of selection; the required number of days notice was not given; you believe you have assignment [bump or retreat] rights; or any other reasons. Please provide as much information as possible regarding each reason.)

Part VII Whistleblowing Activity

INSTRUCTIONS

Complete Parts VII and VIII of this form only if you believe the action you are appealing is based on whistleblowing activities.

39.a) Have you disclosed information that evidences a violation of any law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety?

☒ Yes (attach a copy or summary of disclosure) ☐ No

39.b) If yes, provide the name, title, and office address of the person to whom the disclosure was made

General Thomas J Mc Carthy
4555 IG, 100 M St NW
Ste 1050, Wash DC 20419

39.c) Date the disclosure was made (month, day, year)

1/6/08

40. If you believe the action you are appealing was... (please check appropriate box)

☐ Threatened

☐ Proposed

☒ Taken

☐ Not Taken

...because of a disclosure evidencing a violation of any law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, provide:

a) a chronology of facts concerning the action appealed; and

b) explain why you believe the action was based on whistleblowing activity and attach a copy of any documentary evidence which supports your statement.

I reported fraud, waste, & abuse in the procurement procedures followed in the Atlanta Regional Office.

<p>41.a) Have you sought corrective action from the Office of Special Counsel concerning the action which you are appealing?</p> <p><input type="checkbox"/> Yes (attach a copy of your request to the Office of Special Counsel for corrective action) <input checked="" type="checkbox"/> No</p>	<p>41.b) If yes, date(s) filed (month, day, year)</p> <p>N/A</p>
<p>41.c) Place filed (location, number and street, city, state, and ZIP code)</p> <p>N/A</p>	
<p>42. Have you received a written notice of your right to file this appeal from the Office of Special Counsel?</p> <p><input type="checkbox"/> Yes (attach a copy) <input type="checkbox"/> No N/A</p>	
<p>43.a) Have you already requested a stay from the Board of the action you are seeking to appeal?</p> <p><input type="checkbox"/> Yes (attach a copy) <input type="checkbox"/> No N/A</p>	<p>43.b) If yes, date requested (month, day, year)</p> <p>N/A</p>
<p>43.c) Place filed (location, number and street, city, state, and ZIP code)</p> <p>N/A</p>	<p>43.d) Has there been a decision?</p> <p><input type="checkbox"/> Yes (attach a copy) <input type="checkbox"/> No N/A</p>

Part VIII Stay Request

INSTRUCTIONS

You may request a stay of a personnel action allegedly based on whistleblowing at any time after you become eligible to file an appeal with the Board under 5 C.F.R. 1209.5, but no later than the time limit set for the close of discovery in the appeal. The stay request may be filed prior to, simultaneous with, or after the filing of an appeal. When you file a stay request with the Board, you must

simultaneously serve it upon the agency's local servicing personnel office or the agency's designated representative. 5 C.F.R. 1209.8.

If your stay request is being filed prior to filing an appeal with the Board, you must complete Parts I and II and items 41 through 43 above.

44. On separate sheets of paper, please provide the following. Please put your name and address at the top of each page.

- a. A chronology of facts, including a description of the disclosure and the action taken by the agency (unless you have already supplied this information in Part VII above).
- b. Evidence and/or argument demonstrating that the:
 - (1) action threatened, proposed, taken, or not taken is a personnel action, as defined in 5 C.F.R. 1209.4(a); and
 - (2) action complained of was based on whistleblowing, as defined in 5 C.F.R. 1209.4(b) (unless you have already supplied this information in Part VII above).
- c. Evidence and/or argument demonstrating that there is a

substantial likelihood that you will prevail on the merits of your appeal of the personnel action.

- d. Documentary evidence that supports your stay request.
- e. Evidence and/or argument addressing how long the stay should remain in effect.
- f. Certificate of service specifying how and when the stay request was served on the agency.
- g. You may provide evidence and/or argument concerning whether a stay would impose extreme hardship on the agency.